



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

P.O. BOX 827
CARLISLE, MA 01741
(508) 369-9702

DRAFT

MINUTES

May 6, 1996

**CONT. PUBLIC HEARING: Baldwin Road Special Permit for Common Driveway
(Evans)**

**DISCUSSION: Town Meeting Articles
Carlisle 2000 Report**

Chair Colman called the meeting to order at 7:25 p.m. Colman, Duscha, Epstein, Hengeveld, LaLiberte, Tice and Yanofsky were present. Also present was Planning Administrator Mansfield.

MINUTES: The minutes of the meetings of March 25, 1996, and April 22, 1996, were approved as drafted with typographical corrections 5-0-1 (Hengeveld abstaining, LaLiberte not present) on a motion by Yanofsky, seconded by Tice.

Regarding the discussion on March 25 of future amendments to the Conservation Cluster bylaw, Duscha noted that the request to Bill McNary to prepare a comparative illustration of the proposed amendments had been put on hold when the Board decided not to go forward to Spring Town Meeting with this proposal. It was also noted, however, that the redlined revisions promised by George Foote should still be obtained.

The review of the minutes of April 22 re: the New Town Offices plans led to a brief discussion of the condition of both the Police and School departments' septic systems. Colman observed that the school's system is built two feet below the water table, and 15-20 systems in the center of town are failing and /or show traces of benzene. A central treatment plant may be required, he said, or the DEP might be forced to close the school.

CONT. PUBLIC HEARING: Baldwin Road Special Permit for Common Driveway (Evans)

Colman re-opened the Public Hearing at 7:40 p.m. Scott Evans, the applicant, and Bill Holland were present. Evans reported that Steve Pearlman, representing the Trails Committee, had decided to drop their request for a contingent trail easement within this petition. Yanofsky noted that the Trails Committee minutes of 3/22/96 indicate that the trail easement that is before the Planning Board for its consideration would connect with Two Rod Road, while actually it is an easement to the Flannery property that is now under discussion. Holland agreed to carry this message back to the Committee and to dispel any confusion.

Regarding the draft easement document, Epstein noted that Town Counsel had recommended the elimination of the sentence, "Grantee assumes responsibility for the perpetual maintenance of the easement area." Epstein also proposed deletion of "and others to whom Grantor may grant rights" in paragraph 3. Evans agreed to both changes. He also agreed, at Epstein's suggestion, to exchange the terms "Grantee" and "Grantor" in the first sentence of paragraph 3, to make the most sense in the present situation.

Duscha asked Holland if the Trails Committee desires to include mountain bikes as a user category. Holland replied that he thought the Committee did anticipate this class of use. (However, the final easement document does not include this category.)

Yanofsky asked whether the demarcation of the trail had been corrected on the plans, and Mansfield assured her that it had. Thereupon, Tice moved that the public hearing be closed; Duscha seconded the motion, and it was approved 7-0. Yanofsky then moved and Tice seconded the **motion to accept "White Tail Run" Common Driveway Special Permit, and the accompanying maintenance agreement and trail easement documents, as amended**, finding that all lots served by the driveway are provided with safe and convenient access, and that the plan provides preservation of the natural environment, maintenance of neighborhood character, and adequate access for emergency vehicles. The motion was approved by a vote of 6-1, Duscha opposed.

Review of Town Meeting Warrant Articles: Request for Acceptance of Hartwell Rd.

Mark Green and Joan Popolo were present to represent the petitioners. Yanofsky recused herself from this discussion. Green explained that they had submitted the petition to Town Meeting, similar to a petition that had been defeated two years ago. He said that they will be meeting with the Selectmen the next day. Two years ago, the Selectmen referred the petition to the Planning Board for their recommendation. Although that route has not been followed in the present case, Colman noted that there was a strong possibility that the Board will be asked for its opinion at Town meeting.

Green recounted that Hayes Farm subdivision was approved by the Planning Board in 1989. Hartwell Road was completed and a certificate of completion was issued in 1991. But Town Meeting refused to accept the road based on Concord's stipulation that its portion of the roadway would never be accepted, although Carlisle's records do not show the imposition of a similar condition. The road was not built to Concord's subdivision standards in order to minimize the filling of wetlands. Carlisle also waived some of its standards, including maximum dead-end road length, but the completion of the subdivision road according to the approved conditions, Green argued, makes it eligible for acceptance. This, he said, distinguishes it from other private roads in town that are not built to subdivision standards. He added that there are no other subdivision roads complete and not accepted by the Town, nor has the Planning Board ever recommended against their acceptance.

Colman questioned whether the real issue was school bus service. Green replied that this is but one issue; access to all Town services is the larger issue. For example, the Town plowed the road for one year, but now residents contract for snow removal privately. Colman suggested that Carlisle may not have included a "never accept" condition precisely because Concord did, and without a public way in Concord, there is no public access to Hartwell Rd., so no acceptance would be contemplated. But Green responded that there would be no reasonable way a purchaser of property on Hartwell Rd. in Carlisle could know that this obstacle to acceptance exists.

Green suggested that there might be an alternative remedy: petition both towns to redraw the town boundary line to bring the entire roadway into Carlisle. This, however, would require the approval of two town meetings and an act of the State Legislature.

Duscha asked if there is a conservation restriction on the land in Concord. Green replied that there was none to his knowledge. He said the land is owned by the Irwin family and could be built upon limited only by wetlands restrictions. Colman noted that quite a few waivers had been granted to this subdivision. Green replied that most subdivisions in Carlisle are subject to waivers, but noted that the Planning Board was satisfied that basic health and safety concerns were met by this plan.

Mansfield referred the members to a memorandum on this petition received today from former Board member Vivian Chaput and minutes from the April 1994 Board meeting, where the Board had failed to support the previous petition by a vote of 1-2. Green also noted that the Finance Committee had recommended against approval on the warrant, whereas in the 1994 petition they had indicated that it had "no financial impact." He said they seemed to be misinformed regarding the precedent that might be set influencing the acceptance of other private ways. Other private ways, he reiterated, are not built to subdivision standards. Rather, he said, the precedent would be in not accepting a validly completed subdivision road.

Epstein, referring to Chaput's statement that acceptance could create "major legal problems" for the Town, asked what these problems are. He also asked if the neighbors

had considered indemnifying the Town to allow the school bus to use the private portion of the road in Concord. Colman said that it is the School Committee's position that school buses will not travel over a private road.

He went on to explain the 1994 vote where he was present. He said it was Ken Ernstoff's point that if the road meets the standards, the Town has an obligation to accept it., and that home buyers should have anything to the contrary clearly stated in the records. But Chaput, a member in 1989, had said that it was clearly the intent then of the Planning Board not to accept the road. On this basis, he had sided with Chaput.

LaLiberte suggested that the issue is really one of the legality of emergency vehicles crossing the private way in Concord. Colman noted that Town Counsel had never been asked to explore that question. Epstein again asked if the homeowners' association would be willing to indemnify the Town for any liability it may suffer in the first 1,000 feet of the roadway. LaLiberte asked if the association currently uses any indemnification language when it hires contractors. Green said he wasn't aware of such language. Colman suggested that the Town could be accused of damaging the private road while plowing or repairing the public road, and asked if indemnification here would have ramifications for any similar situations in other parts of town. Moreover, he said, we should respect the position of a former Board.

Green recalled that the homeowners had drawn up a release, that was accepted by the Selectmen, for the one-year plowing experiment. He suggested that the Town could require maintenance of the Concord portion of the road by the homeowners. He also said that he believed the previous discussions were outcome-driven.

Duscha observed that the Town might not want to accept a dead-end road well over the 1,000 ft. maximum. She also said that Carlisle may not have put the restriction on acceptance into the records because they felt it was not enforceable.

Epstein asked whether the condition of the road has been examined lately. Green replied that the road was well constructed and has held up very well; but the owners applied a crack seal to it for the first time last fall.

Colman suggested that the Board actively take a position and not ignore the petition. LaLiberte therefore **moved that Hartwell Road be accepted as a public way by Town Meeting, subject to negotiation by the homeowners' association of an acceptable agreement with the Town on liability, access, and maintenance.** Duscha seconded the motion. Epstein suggested that the motion be reworded to state: "**subject to the homeowners' association entering into an acceptable agreement,**" and that the issues of the agreement should include **indemnification and assurance that the association carries sufficient insurance to protect the Town.** LaLiberte accepted these revisions as a friendly amendment to his motion. Green noted that a road maintenance agreement was already in place that provided for assessment of homeowners. The motion **failed to carry**

by a vote of 3-3, LaLiberte, Epstein and Hengeveld in favor, Colman, Duscha and Tice opposed (Yanofsky recused). Duscha reiterated that she was concerned about the length of the dead-end road.

Epstein asked that an informal letter reporting this vote be sent to the Selectmen. Duscha asked that the letter include a statement that some of the needs expressed could be addressed by the School Committee. Green asked the Board to comment upon the FinComm's concern that acceptance of Hartwell Rd. will set a precedent requiring the acceptance of a large number of private ways. LaLiberte said he agreed that such an action would not be precedential. Epstein suggested that the letter ask the Selectmen to seek clarification from the FinComm of the meaning of their statement.

Mansfield was asked to prepare the letter, and Colman and Epstein agreed to review the draft copy. At this point, Tice left the meeting.

Review of Town Meeting Warrant Articles: New Town Offices Plans

At the April 22 meeting, Yanofsky had asked that a letter be sent to the Town Office Building Committee summarizing the Board's review and its position. She suggested that the letter sent in April 1995 be used as the basic form for this letter, and agreed to work with the P.A. to pull it together. Subsequently, they found that the 1995 letter was not an appropriate base. Yanofsky concluded, therefore, that the minutes of the 4/22/96 meeting and the response from the Police Chief regarding traffic concerns, dated 5/6/96, could be easily worked into a new letter. Colman noted that he had received a call from a resident who thought that Church St. should be one way in the opposite direction from the Board's and the Chief's recommendation.

Yanofsky asked that the letter include the Board's findings on the need for Town offices, the diminished civic presence of the redesigned building, the adequacy of the sight distance, the parking lot design, as well as traffic recommendations. She asked that copies of the letter be sent to the Selectmen, Police Chief, Fire Chief, and the DPW Superintendent. Thereupon, she **moved endorsement of the new town offices plan**; the motion was seconded by Epstein; and it was **approved 6-0**.

Review of Town Meeting Warrant Articles: Other Articles

Yanofsky asked whether the Board wished to review the proposed **school "link building."** Colman replied that the Board hasn't been asked for input. Yanofsky explained that she and the P.A. had reviewed the plans at an open house at the school. They propose to create a new main entrance between the wings, but the functional entrance, she contended, is adjacent to the drop-off area. She said she would urge the School Committee to consider developing a plan for the entire site, including circulation.

Colman noted that the project is on a fast track to qualify for SBSB reimbursement from the State. Yanofsky replied that, if the warrant article and override pass, then the Planning Board should get involved in site issues.

Other members noted that the **Library expansion project** had not been presented to the Planning Board as well. But Colman said that at an earlier time they had come to the Board with their plans and had received the Board's support.

Review of the Carlisle 2000 Report

The Board continued its discussion of this report begun at the April 22 meeting. Colman expressed his disagreement with the report's premise that for government to be efficient, town boards should be appointed, not elected. He added that the Planning Board, an elected body, has nevertheless exhibited the highest levels of cooperation with the other entities of town government. He cited as an example that the Planning Board has been the only "independent" board to go to the Town Administrator prior to hiring new staff.

Yanofsky noted that the report does not convincingly document the inefficiencies of the present structure or prove that there is a problem. Colman suggested that efficiency may not be a primary goal of the people of Carlisle.

Epstein asked how the Board planned to respond to this report. Discussion then focused on warrant Article 2, which is to hear the report of the Carlisle 2000 Committee and decide whether their work should be continued. The Board determined to send a letter to the Committee with their comments.

Epstein observed that changing from elected to appointed status does not necessarily improve inter-board communication. He said there may be wisdom in appointing certain town officials who require specific expertise, but this does not carry over as a desirable means to establish policy-setting boards.

Yanofsky listed several points she believed should be made in the letter:

1. Defining the Town Administrator's position in a bylaw would deprive the Selectmen of needed flexibility in governing the town.
2. What is the basis for reducing the quorum for Town meeting to 50, which seems to be an arbitrary number? With that as a quorum, 30 people could dominate a meeting. Setting the quorum as a percentage of the town's population is more reasonable. The expense cited of \$250 to reschedule the Town Meeting does not seem to pose a financial hardship.
3. Regarding elected vs. appointed boards, Selectmen have had appointment vacancies available for months that they cannot fill. Such a situation encourages hand-picking and cronyism. Why are the School Committee and Town Moderator not among those positions recommended to be appointed?

4. The overall theme of the report is to discourage citizen participation, especially evident in the proposals for a reduced quorum and fewer elected offices.
5. Regarding improved communication, note that the Planning Board has reached out to others as no other Board has.

Yanofsky concluded that she doesn't want to endorse this report, but that the letter should state that if changes are made in certain key recommendations, the Board will reconsider its position. Duscha added that the main reason for the Board's reluctance to accept this report is its contradiction to the opinions expressed in the Community Planning Days, namely, that people really want to participate in the governance of their town. Colman observed that a reduction of the quorum is likely to result in items that are approved at Town Meeting being voted down at the polls, which will then be the first and only real chance for most people to participate. Yanofsky again said how strongly she felt that the Board should express its disagreement with the report, and so express its independence. Epstein also indicated his support for the Board's position.

Yanofsky suggested a straw poll, but neither an endorsement with reservations, nor a failure to endorse because of reservations, could carry the Board. LaLiberte then suggested a manner in which to begin the letter: "While we commend and support the goals and a number of recommendations of Carlisle 2000, we cannot support the report because many of its recommendations discourage participation and may create an elitist atmosphere." Hengeveld suggested the letter state that the Planning Board is dedicated to improving communication and its members are assigned as liaisons to other boards and committees. As another example, the Planning Board sponsored the Community Planning Days.

Mansfield agreed to draft the letter and circulate it among all Board members.

Review of Planning Administrator Job Description and Secretarial Assistance

The revised draft of the Administrator's job description as prepared by Mansfield was accepted by the Board. It will be submitted to the Personnel Board upon the signature of the Chair.

Colman suggested that the job description for the Conservation Commission's Secretary/Recorder be revised for similar Planning Board duties and submitted to the Personnel Board. He has already spoken to the Finance Committee about this position and received their approval to establish it. A dollar amount to support it has not yet been determined.

The continuing discussion on Board dynamics and teamwork was postponed until the next meeting of the Board, June 10, when it could be addressed earlier in the evening. The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

George E. Mansfield
Planning Administrator